

## Washington, Thursday, December 15, 1938

### Rules, Regulations, Orders

TITLE 7—AGRICULTURE BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE

[B. E. P. Q.-Q. 72]

WHITE-FRINGED BEETLE QUARANTINE No. 72

### Introductory Note

The white-fringed beetle was first discovered in the United States in Okaloosa County, Fla., in the autumn of 1936. This pest is known to occur in South America and has recently been reported in New South Wales but the time and method of introduction into the United States are unknown.

The larvae of the beetle feed on a wide variety of plant roots and tubers, while the adults feed on leaves and tender shoots above ground.

Adults may be carried to other points by any moving thing, eggs may be transported from place to place in the movement of almost any article coming in contact with the ground, and larvae may be moved with various kinds of soil, peat, compost, and manure.

It is evident, therefore, that cosmopolitan food habits of the pest, its diverse means of spread in any stage of development, together with its parthenogenetic mode of reproduction, characterize the white-fringed beetle as a potentially serious threat to American agricultural and horticultural interests.

### Summaru

The restricted articles are prohibited movement interstate from any regulated area to or through any point outside thereof unless there is attached to the outside of the container a valid inspection certificate issued by an inspector duly authorized by the United States Department of Agriculture. This requirement applies in the case of all restricted articles and for the period of the year designated in regulation 3 unless the Chief of the Bureau has given formal notice to the public that modification has been made as to the articles, or | 13 F. R. 2045 DI.

areas, or periods of the years specified in the regulations.

The list of restricted articles and the period of the year when the certification requirement applies, are stated in regulation 3.

The regulated areas are designated in regulation 2.

Arrangements for inspection may be made by addressing the Bureau of Entomology and Plant Quarantine, Box 989, Gulfport, Miss.

> LEE A. STRONG, Chiet.

### NOTICE OF QUARANTINE NO. 72

Approved December 14, 1938; effective January 15, 1939

I, H. A. Wallace, Secretary of Agriculture, have determined that a quarantine of the States of Alabama, Florida, Louisiana, and Mississippi is necessary to prevent the spread of dangerous infestations of the white-fringed beetle (Naupactus leucoloma Boh.), and a closely related species of Naupactus, two insect pests not widely prevalent within and throughout the United States.

Now, therefore, under authority conferred by section 8 of the Plant Quarantine Act of August 20, 1912 (37 Stat. 315), as amended, and having given the public hearing required thereby,1 I do quarantine the States of Alabama, Florida, Louisiana, and Mississippi and do order that (1) nursery stock or any other plants or plant products; (2) soil, independent of, or used in connection with nursery stock, plants, or plant products; or (3) other articles (as specifically named in the regulations supplemental hereto, in modifications thereof, or in administrative instructions as provided in the regulations supplemental hereto), which are capable of carrying the aforesaid insect infestations, shall not be shipped or offered for shipment to a common carrier by any person, or received for transportation or transported by a common carrier, or carried

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or transported by any person from any such State into or through any other State or Territory or District of the United States, under conditions other than those prescribed in the regulations supplemental hereto: Provided, That the restrictions of this quarantine and of the regulations supplemental hereto may be limited to such areas, designated by



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Washington, D. C.

the Secretary of Agriculture as regulated areas, in the quarantined States, as, in his judgment, shall be adequate to prevent the spread of the said pest or pests. Any such limitation shall be conditioned, however, upon the affected State or States providing for and enforcing the control of the intrastate movement of the restricted articles under the conditions which apply to their interstate movement under existing provisions of the Federal quarantine regulations, and upon their enforcing such control and sanitation measures with respect to such areas or portions thereof as, in the judgment of the Secretary of Agriculture, shall be deemed adequate to prevent the intrastate spread therefrom of said insect infestation: And provided further, That whenever, in any year, the Chief of the Bureau of Entomology and Plant Quarantine shall find that facts exist as to the pest risk involved in the movement of one or more of the articles to which the regulations supplemental hereto apply, making it safe to modify, by making less stringent, the restrictions contained in any such regulation, he shall set forth and publish such finding in administrative instructions, specifying the manner in which the applicable regulation should be made less stringent, whereupon such modification shall become effective, for such period and for such regulated area or portion thereof as shall be specified in said administrative instructions, and every reasonable effort shall be made to give publicity to such administrative instructions throughout the affected areas.

Done at the city of Washington this 14th day of December 1938.

United States Department of Agricul-

[SEAL]

H. A. WALLACE, Secretary of Agriculture.

REGULATIONS SUPPLEMENTAL TO NOTICE OF QUARANTINE NO. 72

#### Regulation 1. Definitions

- The pests.-The white-fringed (a) beetle, Naupactus leucoloma boh., and a closely related species of Naupactus, in any stage of development.
- (b) Adults and larvae.—Adults and larvae of Naupactus leucoloma and a closely related species of Naupactus.
- (c) Regulated area.—Any area in a quarantined State which is now, or which may hereafter be, designated as regulated by the Secretary of Agriculture in accordance with the provisos to notice of Quarantine No. 72.
- (d) Restricted articles.-Products or articles of any character whatsoever, the interstate movement of which is restricted by the provisions of the whitefringed beetle quarantine, and regulations supplemental thereto.
- (e) Inspector.—Duly authorized Federal plant-quarantine inspector.
- (f) Certificate.-An approved document, issued by an inspector, evidencing the apparent freedom of restricted articles from the pests.
- (g) Limited permit.—An approved document, issued by an inspector, to allow movement of noncertified, restricted articles to or from designated and authorized manufacturing plants, mills, gins, or processing plants.
- (h) Dealer-carrier permit.-An approved document issued to persons or firms approved for, and engaged in purchasing, assembling, exchanging, processing, or transporting restricted articles.
- (i) Administrative instructions.—Administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine.
- (i) Intested or intestation.—Infested by the white-fringed beetle, the closely related species, or both such pests, in any stage of development.

### Regulation 2. Regulated Areas

The following counties, parishes, cities and towns or parts thereof, as described, are designated by the Secretary of Agriculture as regulated areas:

Alabama.—In Conecuh, Monroe, and Wilcox Counties: The W3 Tps. 5 and 6 N. and all of Tps. 7, 8, 9, 10, and  $S\frac{1}{2}$ T. 11 N., R. 9 E. All of Tps. 5, 6, 7, 8, 9, and S½ T. 10 N., R. 8 E. Secs. 25, 26, 35, and 36, T. 7 N., R. 7 E., and Secs. 1 and 2, T. 6 N., R. 7 E.; In Covington County: T. 1 N., Rs. 17 and 18 E. and SE1/4 T. 1 N., R. 16 E. and all south of both areas Geneva County: Secs. 31, 32, and 33, T.

Witness my hand and the seal of the Alabama-Florida State line; in Mobile County: That area bound on the east by Mobile River, on the south by Congress Street and a line extended therefrom to Mobile River in the city of Mobile, on the west by Joachim Street in the same city, to its intersection with One Mile Creek; thence northeast along One Mile Creek to Conception Street Road; thence northwest on said road to Three Mile Creek; thence east along Three Mile Creek to Mobile River.

> Florida.—In Escambia County: All of the city of Pensacola; in Okaloosa County: T. 5 N., R. 22 W. and Secs. 1, 2, and 3 of T. 5 N., R. 23 W. and all lands north of both areas to the Florida-Alabama State line; in Walton County: T. 5 N., Rs. 20 and 21 W. and Secs. 31, 32, and 33, T. 6 N., R. 19 W. and all lands north of both areas to the Florida-Alabama State line; also Sec. 1-24 inclusive of T. 4 N., R. 19 W.

> Louisiana.-All of Orleans Parish including the city of New Orleans, and all of Saint Bernard Parish; in East Baton Rouge Parish: T. 7 S., Rs. 1 and 2 E. and 1 W., including all of the city of Baton Rouge; in Jefferson and Plaquemines Parishes: Those parts lying north of the township line between Tps. 14 and 15 S.

Mississippi.—In Harrison and Stone Counties: That area bound by the east line of sec. 31, T. 7 S., R. 10 W. extending from a point where it intersects or would intersect with the Mississippi Sound if extended without change in direction to said sound; thence north to Bayou Bernard; thence following a general northwesterly direction along Bayou Bernard to east line of sec 22, T. 7 S., R. 11 W., thence north to intersection with Biloxi River, thence northwest along Biloxi River to intersection with the east line of sec. 5, T. 6 S., R. 11 W., whence north to SE corner sec. 32, T. 3 S., R. 11 W., thence west along township line to SE corner sec. 34, T. 3 S., R. 12 W., thence south to a point where the east line of sec. 15, T. 7 S., R. 12 W. intersects Landon Road, thence west along Landon Road to intersection of east line of sec. 9, T. 7 S., R. 12 W., thence south to Mississippi Sound, thence along the sound to starting point and including all property extendonto or over the waters of Mississippi Sound; in Hinds County: E1/2 T. 6 N., R 3 W., and W 1/3 T. 6 N., R. 2 W.; in *Jackson* County: That area included within a boundary beginning at SE corner sec. 31, T. 7 S., R. 5 W., and extending north to Escatawpa River; thence west along said river to the Pascagoula River, thence south along Pascagoula River to township line between Tps. 7 and 8 S., thence east along the said township line to the starting point; in Jones County: That area included within a boundary beginning at SW corner sec. 14, T. 8 N., R. 12 W., thence east to SE corner sec. 16, T. 8 N., to the Alabama-Florida State line; In R. 11 W., thence north to NE corner sec. 9, T. 8 N., R. 11 W., thence east to NE 1 N., R. 19 E. and south thereof to the corner sec. 11, T. 8 N., R. 11 W., thence

north to NE corner sec. 26, T. 9 W., R. 11, W., thence west to SE corner sec. 21, T. 9 N., E. 11 W., thence north to NE corner sec. 16, T. 9 N., R. 11 W., thence west to NW corner sec. 14 T. 9 N., R. 12 W., thence south to Tallahoma Creek, thence southerly along said creek to its intersection with the west line of sec. 11, T. 8 N., R. 12 W., thence south to starting point; in Pearl River County: All of T. 5  $\cdot$  S., R. 16 W., and E½ T. 5 S., R. 17 W.

Regulation 3. Restricted Articles

- (a) Carriers of larvae.—The interstate movement of the following articles from the regulated areas is regulated throughout the year:
- (1) Soil, earth, sand, clay, peat, compost, and manure whether moved independent of, or in connection with or attached to nursery stock, plants, products, articles, or things.
  - (2) Potatoes and sweetpotatoes.
- (b) Carriers of eggs and adults.—Except as provided in regulation 4 hereof, the interstate movement from any regulated area of the following products is regulated for the periods indicated:

From June 1 to November 30, inclusive, of each year.—(1) Sweetpotato vines, draws, and cuttings.

- (2) Cordwood, pulpwood, stumpwood. and logs.
- (3) Unused lumber, timbers, posts, poles, and crossties.

From June 1 to January 31, inclusive, of any 12-month period.—(1) Hay, roughage of all kinds, straw, leaves, and leaf mold.

- (2) Peas, beans, and peanuts in shells, or the shells of any of these products.
- (3) Seed cotton, cottonseed, baled cotton lint, and linters.
- (4) Used implements and machinery, scrap metal, junk, and utensils or containers coming in contact with the ground.
- (5) Brick, tiling, stone, and concrete slabs and blocks.
- (6) Used lumber, timbers, posts, poles, crossties, and other building materials.
- (7) Nursery stock and other plants. which are free from soil.
- (c) Designation of other restricted artiçles.—Any other articles which, by reason of exposure or surroundings, may be found by the Chief of the Bureau of Entomology and Plant Quarantine to serve as carriers of the pest in any stage of development and which are so designated by him in administrative instructions. shall thereafter be subject to the restrictions of this quarantine and the regulations supplemental thereto.

Regulation 4. Conditions Governing Interstate Movement of Restricted Arti-

(a) Restricted articles shall not be moved interstate from a regulated area to or through any point outside thereof unless accompanied by a valid inspection certificate issued by an inspector: Provided. That certification requirements as they relate to part or all of any regulated Bureau of Entomology and Plant Quar- 14th day of December, 1938.

adults and eggs, may be waived, during part or all of the year, by the Chief of the Bureau of Entomology and Plant Quarantine, on his finding and giving notice thereof, in administrative instructions, that the State concerned has promulgated and enforced adequate sanitary measures on and about the premises on which restricted articles originate or are retained, or that adequate volunteer sanitary measures have been applied, or that other control or natural conditions exist which have eliminated the risk of egg or adult contamination.

(b) No certificates are required for interstate movement of regulated articles when such movement is wholly within contiguous regulated areas.

Regulation 5. Conditions Governing the Issuance of Certificates and Permits

- (a) Certificates authorizing the interstate movement of soil, earth, sand, clay, peat, compost, or manure, originating in an infested area, may be issued only when such articles have been treated, fumigated, sterilized, or processed under methods approved by the Chief of the Bureau of Entomology and Plant Quarantine.
- (b) Certificates authorizing the interstate movement of soil, earth, sand, clay, peat, compost, or manure, originating in noninfested parts of a regulated area, and of all other restricted articles from any part of a regulated area, may be issued upon determination by the inspector that the articles are (1) apparently free from infestation; or (2) have been treated, fumigated, sterilized, or processed under approved methods; or (3) were grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, no infestation would be transmitted thereby.
- (c) Limited permits for manufacturing and processing purposes.—Limited permits may be issued for the movement of noncertified restricted articles to such manufacturing or processing plants, mills, or gins in nonregulated areas as may be authorized and designated by the Chief of the Bureau of Entomology and Plant Quarantine, for manufacture, processing, or treatment. As a condition of such authorization and designation, manufacturing or processing plants, mills, or gins in nonregulated areas shall agree in writing to maintain such sanitary safeguards against the establishment and spread of infestation and to comply with such restrictions as to the handling and subsequent movement of restricted products as may be required by the inspector.
- (d) Dealer-carrier permit.—As a condition of issuance of certificates or permits for the interstate movement of restricted articles, all persons or firms engaged in purchasing, assembling, exchanging, processing, or carrying such restricted articles originating or stored in regulated areas, shall make application for a dealer-carrier permit to the

area and as they pertain to carriers of antine, stipulating that the permittee will maintain an accurate record of receipts and sales, shipments, or services, when so required, which records shall be available at all times for examination by an inspector; and that he will carry out, under a signed agreement, any and all conditions, treatments, precautions, and sanitary measures which may be specified therein.

> Regulation 6. Certification a Condition of Interstate Movement

> Unless exempted by administrative instructions issued by the Chief of the Bureau of Entomology and Plant Quarantine, every container of restricted articles moved interstate from any regulated area shall have securely attached to the outside thereof a certificate or permit issued in compliance with these regulations, except that the certificate or permit issued (1) for lot shipments by freight shall be attached to one of the containers and a duplicate thereof shall be attached to the waybill, (2) for shipments by road vehicle shall accompany the vehicle, (3) for bulk carload shipments by freight shall accompany the waybill or conductor's manifest.

### Regulation 7. Assembly of Restricted Articles for Inspection

Persons intending to move restricted articles interstate shall make application for certification as far as possible in advance of the probable date of shipment. Applications must show the nature and quantity of articles to be moved, together with their exact location, and if practicable, the contemplated date of shipment. Applicants for inspection may be required to assemble or indicate the articles to be shipped so that they may readily be examined by the inspector.

The United States Department of Agriculture will not be responsible for any cost incident to inspection or treatment other than the services of the inspector.

Regulation 8. Cancelation of Permits

Certificates or permits issued under these regulations may be withdrawn or canceled and further certification refused whenever, in the judgment of the Bureau of Entomology and Plant Quarantine, the further use of such certificates or permits might result in the dissemination of infestation.

Regulation 9. Shipments for Experimental and Scientific Purposes

Articles subject to restrictions may be moved interstate for experimental or scientific purposes, on such conditions as may be prescribed by the Chief of the Bureau of Entomology and Plant Quarantine. The container of articles so moved shall bear an identifying tag from the Bureau of Entomology and Plant Quarantine.

These regulations shall be effective on and after January 15, 1939.

Done at the city of Washington this

United States Department of Agriculture. of the attesting officer.

[SEAL]

H. A. WALLACE, Secretary of Agriculture.

[F. R. Doc. 38-3758; Filed, December 14, 1938; 12:23 p.m.]

## TITLE 20-EMPLOYEES' BENEFITS SOCIAL SECURITY BOARD

PART 402. FEDERAL OLD-AGE BENEFITS\*# REGULATIONS NO. 2 RELATING TO FEDERAL OLD-AGE BENEFITS UNDER TITLE II OF THE SOCIAL SECURITY ACT AMENDED

Regulations No. 2, approved July 20, 1937, relating to Federal Old-Age Benefits under Title II of the Social Security Act, approved August 14, 1935 (Public, No. 271, Seventy-fourth Congress: 49 Stat. 620), are amended as follows:

The following sections of Part 402 are amended to read as follows:

"SEC. 402.302 Applications for Lump-Sum Benefit Payment. A lump-sum benefit will be certified for payment only upon application of the wage earner if he be living and competent; or if he be deceased or incompetent, upon application of his guardian, committee, or other legal representative, or of some person specified in article 311 or 312 (Secs. 402.311, 402.312), who is entitled under the laws of the State in which the deceased wage earner was domiciled, to receive payment.

"Sec. 402.303 Prescribed Forms. Application for lump-sum benefit should be made on the prescribed form or forms and shall be prepared in accordance with shall be accompanied by a duly executed the instructions printed thereon or attached thereto and in accordance with these regulations. The prescribed forms may be obtained from any field office of form of letters of appointment, a certithe Social Security Board. Each application shall be prepared so as to set forth fully and clearly the data called for

"SEC. 402.304 Execution of Applications. Each application executed within the United States by a person, other than a legal representative, shall be signed and witnessed in the prescribed manner.

"Applications executed outside of the United States shall be signed and verified under oath or affirmation before an officer duly authorized to administer oaths for general purposes or by a consular officer of the United States. If a foreign official having no seal acts as attesting officer, the authority of such attesting officer should ordinarily be certified to by an officer having knowledge

Witness my hand and the seal of the of the appointment and official character found by the Board to be entitled there-

"An application signed by a legal representative and accompanied by the evidence of his appointment, as required by article 311 (Sec. 402.311), ordinarily need not be witnessed or verified under oath or affirmation.

"SEC. 402.305 Place of Filing Application. Applications and supporting data should be filed, by mail or otherwise, with any field office of the Social Security Board."

"Sec. 402.307 Proof of Age. \* \* "(b) (3) A statement of two other persons having knowledge thereof, executed as required in the prescribed form, or

"SEC. 402.308 Proof of Death. \* \* "(4) Where death occurs outside of the United States there shall be furnished a report of the death by a United States Consul or other agent of the State Department, bearing the signature and official seal of the United States Consul, or a certified copy of the public record of death authenticated by the United States Consul or other agent of the State Department, or such other evidence as will establish death to the satisfaction of the Board."

"SEC. 402.310 Proof of Wages. Wages paid with respect to employment after December 31, 1936, will be evidenced by the wage records maintained by the Board and/or other evidence as may be acceptable to the Board.

"Sec. 402.311 Applications by Guardian, Committee, Executor or Administrator. Applications filed by a guardian, committee, executor or administrator certificate of authority issued by the proper officer of the court of appointment. Such certificate may be in the fled copy thereof, a short form certificate, a certified copy of the order of appointment, or any other official document indicating that the applicant is at the time of certification qualified to act as such representative. A certification made more than one year prior to the date it is filed with the Board will not be acceptable. The Board may require recertification or other evidence at any time if, in its judgment, such action is necessary to establish the authority of the applicant.

"Application and supporting documents of a public administrator or other state official authorized by state law to receive and distribute estate moneys, or any portion thereof, must contain his full title, a description of his authority to receive the benefit, and such other evidence of his authority as the Board may require.

"Sec. 402.312 Discretionary Payments Under Section 205. The amount due the estate of a deceased wage earner, if not more than \$500, may be paid to persons

to under the law of the state in which the deceased was domiciled. The Board will exercise its discretion to effect payment to relatives only if each of the three following conditions exists:

"(1) No executor or administrator is duly authorized under the laws of the deceased's domicile to receive such payment and it appears that no such executor or administrator will be so authorized; and

"(2) The right to payment would not be affected by the validity of an instrument appearing to be a will but not duly determined by probate; and

"(3) No creditor (other than a relative or any member of the family with respect to funeral expenses) is entitled, and at least one person entitled is one of the following:

"(a) A spouse, child, grandchild, parent; or

"(b) Any relative (including relatives by marriage) or any member of the family, who has made a payment toward funeral expenses of the deceased from his or her own funds; or

"(c) A person whose right is evidenced to the satisfaction of the Board by court action or by a substitute therefor authorized by the law of the deceased's domicile.

"Even though the foregoing conditions are met, the Board may, in a particular situation, determine not to exercise its discretionary power to make payment under section 205, and in exceptional circumstances may waive the above requirements when it is fully satisfied as to the person entitled."

"SEC. 402.314 Proof of Entitlement. The responsibility of establishing entitlement to benefits payable under Title II of the Act rests upon the applicant."

"SEC. 402.316 Reconsideration of claims. The claimant will, upon completion of adjudicative action, be informed by the Board of the decision on the claim. The claimant shall have the right to have a reconsideration of his claim upon written notice to the Board."

### Authority for Regulations

In pursuance of sections 205 and 1102 of the Act, the foregoing regulations this day adopted by the Board are hereby prescribed this December 8, 1938.

SOCIAL SECURITY BOARD,

[SEAL] A. J. ALTMEYER, Chairman.

[F. R. Doc. 38-3750; Filed, December 13, 1938; 2:49 p. m.]

### TITLE 46—SHIPPING UNITED STATES MARITIME COMMISSION

[General Order No. 19, Amended]

WAGE SCALES, MANNING SCALES, WORK-ING CONDITIONS UPON CARGO VESSELS OWNED BY, AND OPERATED FOR THE AC-COUNT OF THE COMMISSION

At a regular session of the United States Maritime Commission, held at its

<sup>\*</sup>With the exception of Section 402.312 (for which see footnote to that section), sections 402.302 through 402.316 are issued under authority contained in Section 1102 of the Social Security Act (49 Stat. 647; 42 U.S. C., Sup. II, 1302).

#Section numbers used herein correspond

to numbers assigned in the code of Federal Regulations. The numbers after the decimal point in each section number correspond to the article numbers assigned in Regulations No. 2 of the Social Security Board.

<sup>&</sup>lt;sup>1</sup> Section 402,312 is issued under the authority contained in Section 205 of the Social Security Act (49 Stat. 624; 42 U. S. C., Sup. III, 405).

Upon consideration of the existing regulations with respect to wage scales, manning scales and working conditions upon cargo vessels owned by, and operated for the account of, the Commission and of the report and recommendations of the Director, Division of Maritime Personnel and the Director, Division of Operations and Traffic, submitted November 14, 1938, it is hereby

Ordered, That, effective at the time of the first signing of foreign or coastwise articles on or after December 15, 1938, General Order No. 19, adopted December 15, 1937, be, and hereby is, amended to read as hereinafter set forth, and any other regulation of the Commission, to the extent that it is in conflict herewith be, and hereby is, rescinded.

By order of the United States Maritime Commission.

[SEAL]

RUTH GREENE, Assistant Secretary.

Manning and Basic Wage Scales for Cargo Vessels

[Accommodating not more than 12 passengers]

[Accommodating not more than 12 passengers]							
Rating	Vessels with water- tube boilers		Vessels with scotch boilers		Diesel vessels		
	Number	Wages per month	Number	Wages per month	Number	Wages per month	
Deck department							l
Master. Chief mate. Second mate. Third mate. Junior third mate. Radio operator. Carpenter (see Note 1). Boatswain (see Note 2). Utility man (see Note 3). Able seaman. Ordinary seaman.	1 1 1 1 1 1 3	\$330.00 190.00 170.00 152.50 135.00 125.00 85.00 85.00	1 1 1 1	170. 00 152. 50 135. 00 125. 00 85. 00 85. 00	1 1 1 1 1 1 1 6	170.00 152.50 135.00 125.00 85.00 85.00 72.50	
Engine department Chief Engineer First asst. engineer Second asst. engineer Third asst. engi- Jr. third asst. engi-	1 1		1	190.00 .170.00	. 1	209.00	
neer	3 3		<u>-</u>	82. 50	1 3 1	170.00 82.50	
Fireman	3			72. 50 60. 00	2	60.00	
Chief steward	1 1 1 1 1 2	90. 00 60. 00 57. 50	1 1 1	90.00 60.00 57.50	1 *2 1	90.00 60.00 57.50	

Overtime.—The overtime rate of pay for licensed personnel shall be \$1.00 per hour, and for unlicensed personnel, 70¢ per hour.

Note 1 .- Carpenter's tools will be furnished

department will be required to carry an oiler's

department will be required to carry an oner's certificate.

\* On S. S. Yomachichi only one messman will be carried.

Night relieving officers.—Night relieving officers shall be employed on vessels in active operation in all domestic ports where a vessel is to remain for two or more nights and shall be compensated at the rate of \$9.00 per night.

#### WORKING CONDITIONS FOR CARGO VESSELS

#### General Provisions

- 1. Obedience.—Prompt obedience shall be rendered to the orders of the master and other superior officers.
- 2. Holidays.—The following holidays shall be observed: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Armistice Day, Thanksgiving and Christmas Day. If a holiday falls on Sunday, the following Monday shall be observed as a holiday.
- 3. Inspections.—In order to insure cleanliness and orderliness, the heads of the various departments shall make a daily inspection of all crew accommodations. The master shall make an inspection of the entire vessel at least once every week with particular attention to officers' and crews' quarters and food. Daily inspections by department heads shall be entered in the chief mate's log book. The master's weekly inspections shall be recorded in the official log book.
- 4. Drills.—Fire and boat drills shall, weather permitting, be held weekly. Such drills shall be held without prior notice or preparation, but it shall not be made the regular practice to conduct such drills on Saturday afternoons, Sundays or holidays. The entire crew, except those on station required for safe navigation and management of the vessel, shall participate in such drills. The master shall enter a record of such drills in the log, giving a complete account of his estimate of the efficiency with which such drills are executed.
- 5. Continuous service remuneration. All licensed and unlicensed personnel who have been continuously employed on vessels operated for the account of the Maritime Commission, beginning with any date subsequent to March 1, 1937, shall receive in addition to the basic pay of their respective ranks, grades or ratings, additional remuneration as follows:
- (a) for continuous service in excess of 12 months, 3 per centum of the current basic pay; or
- (b) for continuous service in excess of 24 months, a total of six per centum of the current basic pay; or
- (c) for continuous service in excess of 36 months, a total of ten per centum of the current basic pay.

Continuity of service shall be deemed to be broken by voluntary separation by vessel.

NOTE 2.—Boatswains will be required to hold A. B. and lifeboat certificates.

NOTE 3.—Utility Men will be carried on Diesel vessels in the service of the American

NOTE 3.—Utility Men will be required to hold cause. Continuity of service shall not be deemed to be broken by temporary copies with his comments to the United

office in Washington, D. C., on November 25, 1938.

Upon consideration of the existing regtion shall accrue during the period of furlough. A furlough, for the purpose of this section, is defined as a leave of absence for a definite period of time, not to exceed three months, but capable of extension from time to time, granted with the approval of the District Manager of the Maritime Commission.

6. Breaking and setting watches .-Watches will be set or broken in the discretion of the master.

- 7. Eight hour day.—The standard working day for all licensed and unlicensed personnel shall be eight hours, at sea or in port. No licensed officer or unlicensed member of the crew shall be required to work in excess of eight hours between midnight and midnight of any day except in case of either of the following emergencies:
- (a) work necessary for safety of the vessel, passengers, crew or cargo;
- (b) saving life aboard other vessels in jeopardy.

Time in excess of eight hours used for fire and boat drills and in changing watches and relieving watches for meals shall not be computed in determining the eight hour day.

- 8. Week-end and holiday lay-offs.—No officer or member of the crew shall be laid off without pay over a Saturday afternoon, Sunday or holiday, if working immediately previous to and after such days.
- 9. Complaints or suggestions for the good of the service.—Whenever an officer or member of a crew has a suggestion or complaint he may submit it through his immediate superior to the master for adjustment.

Suggestions which the master does not adopt or which are not within his jurisdiction to effect shall be forwarded by him to the District Manager of the United States Maritime Commission with his comments.

The procedure for the adjustment of complaints will be as follows:

- '(a) Complaints, if not satisfactorily adjusted by the immediate superior of the complainant, may be taken to the department head and thence, if necessary, to the master. When a complaint is presented to the master it shall be in writing and bear the endorsement of the immediate superior and the department head with such comments as either may desire to make.
- (b) Whenever possible, the master shall without delay, adjust and dispose of all complaints brought to him by any officer or member of the crew.
- (c) Should the master be unable satisfactorily to adjust the complaint he shall refer the same in triplicate with his comments to the District Manager of the United States Maritime Commission.

Nothing herein contained shall be construed to restrict in any way the authority of the master or to permit any officer or member of the crew to disobey the lawful order of a superior.

Nothing herein contained shall preclude any employee or his representative from the exercise of any rights granted by law with respect to making of complaints.

10. Workaways.--Workaways shall be carried solely for the purpose of providing transportation and, in such case, shall be in addition to the regular crew.

### Licensed Officers and Department Heads

11. Vacations.-After each year of continuous service subsequent to March 1, 1937, every licensed officer and department head who has been employed continuously on any vessels operated for the account of the Maritime Commission shall receive at the end of each such year, a vacation with full pay of 14 consecutive calendar days.

Such vacations may be cumulative, but not to exceed a total of 28 days, and shall be allowed at such time as may be convenient to the operating necessities of the service, upon the approval of the District Manager of the Maritime Commission. No cash allowance in lieu of vacation shall be made.

After 6 months of continuous service, if employment is terminated through no fault of the officer or department head, he shall be entitled to such vacation as has been accrued on the basis of 1/12th the annual period per month of continuous service.

Continuous service shall be computed in the same manner as provided by Section 5 for the purpose of continuous service remuneration.

12. Travel:—(a) When traveling in the course of employment from one vessel to another or from one port to another, licensed officers and department heads shall be paid regular wages while en route and shall be provided with transportation, including berth if overnight, and subsistence at the rate of \$4.00 per day, except where subsistence is included with transportation.

(b) If prior to the completion of Shipping Articles, the vessel is withdrawn from service for any cause, including shipwreck, licensed officers and department heads shall be provided with transportation and subsistence, as provided in subsection (a) of this section, to the port where Shipping Articles were signed, unless another port is designated in the Shipping Articles. Full wages shall be paid up to the time of arrival at either of such ports. Application for such return transportation, subsistence and wages must be made within 15 days from the date of withdrawal of the vessel from service, except that in the case of shipwreck, such application must be made within 15 days from the date of arrival at

shall not be paid under any conditions.

13. Subsistence.—When meals are not furnished, licensed officers and department heads shall receive a subsistence allowance at the rate of \$3.00 per day, and when required to sleep ashore, they shall receive an allowance of \$2.50 per night for lodging.

14. Overtime.-Provisions of law relating to restriction of required employment to eight hours per day shall be strictly observed, but if voluntary work is performed in excess of eight hours, the following procedure shall govern.

Such overtime work shall be performed only upon the authorization of the department head with the prior approval of the master. His certification on the form provided therefor shall be the basis of overtime payments to the officers and

All work in excess of eight hours in twenty-four required in docking and undocking the vessel shall be paid for at the overtime rate.

When overtime work performed is less than one hour, overtime for one full hour shall be paid. Where overtime work exceeds one hour, the overtime work performed shall be paid for in units of one half hour.

Overtime compensation shall be paid in cash promptly upon completion of the voyage, and, where practicable, at the same time regular wages are paid.

#### At Sea

Overtime will be paid only for duly authorized work in excess of that required under paragraph 7.

### In Port

Port time shall commence when a vessel has been secured to her berth and "Finished with Engines" has been rung. Port time shall cease when "Stand By" is rung.

The normal working day in port shall not exceed eight hours, distributed as directed by the master as necessities of watches and other duties require. Overtime shall be paid for all work performed in excess of eight hours between midnight and midnight and for all work performed on Saturdays after 12:00 Noon and on Sundays and holidays, upon conditions herein prescribed.

### Unlicensed Personnel (Other Than Department Heads)

15. Vacations.-For each year of continuous service after March 1, 1937, all unlicensed personnel other than department heads who have been continuously employed on any vessels operated for the account of the Maritime Commission shall receive at the end of each such year. a vacation with full pay of 7 consecutive calendar days after the first year of continuous service and of 14 consecutive calendar days after two or more years of continuous service.

Such vacations may be cumulative,

States Maritime Commission at Wash-|return transportation provided for herein|shall be allowed at such time as may be convenient to the operating necessities of the service upon the approval of the District Manager of the Maritime Commission. No cash allowance in lieu of vacation shall be made.

> After 6 months of continuous service, if employment is terminated through no fault of the employee, he shall be entitled to such vacation as has been accrued on the basis of 1/12th the annual period per month of continuous service.

> Continuous service shall be computed in the same manner as provided by section 5 for the purpose of continuous service remuneration.

> 16. Travel:—(a) When traveling in the course of employment from one vessel to another or from one port to another, unlicensed personnel (other than department heads) shall be paid regular wages while en route and shall be provided with transportation, including berth if overnight, and subsistence at the rate of \$3.00 per day, except where subsistence is included with transportation.

(b) If prior to the completion of Shipping Articles, the vessel is withdrawn from service for any cause, including shipwreck, unlicensed personnel shall be provided with transportation and subsistence, as provided in subsection (a) of this section, to the port where Shipping Articles were signed, unless another port is designated in the Shipping Articles. Full wages shall be paid up to the time of arrival at either of such ports. Application for such return transportation, subsistence and wages must be made within 15 days from the date of withdrawal of the vessel from service, except that in the case of shipwreck, such application must be made within 15 days from the date of arrival at a safe port. The money equivalent of return transportation provided for herein shall not be paid under any conditions.

17. Subsistence.--When meals are not furnished, unlicensed personnel, other than department heads, shall receive a subsistence allowance at the rate of \$1.80 per day, and an allowance of \$2.00 for lodging.

18. Overtime.-Provisions of law relating to restriction of required employment to eight hours per day shall be strictly observed, but if voluntary work is performed in excess of eight hours, the following procedure shall govern.

Such overtime work shall be performed only upon the authorization of the department head with the prior approval of the master. His certification on the form provided therefor shall be the basis of overtime payments to the officers and

All work in excess of eight hours in twenty-four required in docking and undocking the vessel shall be paid for at the overtime rate.

When overtime work performed is less than one hour, overtime for one full hour shall be paid. Where overtime work exa safe port. The money equivalent of but not to exceed a total of 28 days and ceeds one hour, the overtime work performed shall be paid for in units of one tions for the Administration of National trespass by livestock and the impound-

Overtime compensation shall be paid in cash promptly upon completion of the voyage, and, where practicable, at the same time regular wages are paid.

#### At Sea

Overtime will be paid only for any duly authorized work in excess of that required under paragraph 7.

### In Port

Port time shall commence when a vessel has been secured to her berth and "Finished with Engines" has been rung. Port time shall cease when "Stand By" is rung.

Deck and engine departments. In port, the normal working day shall be between 8:00 A. M. and 5:00 P. M., Monday to Fridays, both inclusive; and 8:00 A. M. and 12:00 Noon on Saturdays, except for the donkey and gangway watches.

All work performed at any time on Sundays or Holidays or after 12:00 Noon on Saturdays, including that of the donkey and gangway watches, shall be paid for at the overtime rate.

All work performed before 8:00 A. M. and after 5:00 P. M. Monday to Friday, both inclusive, shall be paid for at the overtime rate, except that of the donkey and gangway watches, who shall receive overtime pay only when the hours worked in any one day exceed eight, regardless of whether or not cargo is being worked.

Steward's department.—The working day at sea shall not exceed eight hours in a spread of twelve hours, and when practicable shall be between the hours of 6:00 A. M. and 6:00 P. M. In port, the working day shall not exceed eight hours in a spread of thirteen hours, and when practicable shall be between the hours of 6:00 A. M. and 7:00 P. M. At sea or in port, overtime shall be paid for work performed in excess of eight hours, subject to the general provisions regarding overtime. In port, overtime shall be paid for work performed after 12:00 Noon Saturdays, Sundays and Holidays.

[F. R. Doc. 38-3759; Filed, December 14, 1938; 12:58 p. m.]

### TITLE 50-WILDLIFE

BUREAU OF BIOLOGICAL SURVEY

AMENDMENT TO REGULATIONS FOR THE AD-MINISTRATION OF NATIONAL WILDLIFE REFUGES UNDER THE JURISDICTION OF THE BUREAU OF BIOLOGICAL SURVEY

By virtue of authority conferred upon the Secretary of Agriculture by section 10 of the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), section 84 of the Act of March 4, 1909, 35 Stat. 1104, as amended by the Act of April 15, 1924, 43 Stat. 98, and section 401 of the Act of June 15, 1935, 49 Stat. 383, and otherwise, "Regulation 16-Impounding of Animals" of the "Regula- 12 F. R. 2537 (2951 DI).

of the Bureau of Biological Survey," issued November 23, 1937,1 is hereby amended effective December 20, 1938, to read as follows:

REGULATION 16-IMPOUNDING OF ANIMALS

Domestic livestock and dogs trespassing on a refuge may be impounded by the officer in charge. If the owner is known, prompt written notice of the impounding will be served upon him and in the event of his failure to remove the impounded animal within 5 days from delivery of such notice it will be sold or otherwise disposed of as hereinafter prescribed. If the owner is unknown, no sale or other disposition of the animal shall be made until at least 15 days have elapsed from the date that a notice of the impounding is first published in a newspaper of general circulation in the county in which the trespass occurs and posted at the county courthouse. Regional directors and officers in charge of refuges are hereby authorized to order the publication of such notices in newspapers by direct transmittal to the publisher of the standard form of advertising order approved by the Comptroller General. The notice shall state when and where the animal was impounded, shall describe it by brand or earmark or both, or, in the absence of such distinguishing marks, by such other means as are necessary to identify such animal and shall specify the time and place it will be offered at public sale to the highest bidder in default of redemption by the owner on or before that date, and the right to reject any and all bids shall be reserved. Prior to such sale the owner may redeem the animal by submitting proof of ownership and paying all expenses incurred by the United States for capturing, advertising, pasturing, feeding, and impounding. Upon the sale of any animal in accordance with this regulation, the Chief of Bureau or his authorized representative shall issue a certificate of sale. If an animal impounded under this regulation is offered at public sale and no bid is received or the highest bid received is in an amount less than the amount of the claim of the United States or the officer's appraised value of the animal, whichever is the lesser amount, it may, in the discretion of the officer be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States if of value for that purpose.

In all livestock trespasses on wildlife refuges the value of the forage consumed will be computed at the daily, monthly, or yearly commercial rates prevailing in the locality for the class of livestock found in trespass.

In addition to the damages to wildlife refuge property injured or destroyed, and in order to compensate the United States fully for any loss resulting from

Wildlife Refuges under the Jurisdiction ing, sale, or other disposition thereof, a charge may be made and added to the value of the forage consumed, which shall include the pro rata salary of refuge officers for the time spent and the expenses incurred in and about the investigations, reports, and settlement or prosecution of the case.

> Where the amount received in the sale of the animal either under bid or at private sale, or the appraised value thereof in case the animal is converted to the use of the Government, is insufficient to meet the amount of the Government's claim or when necessary to destroy the impounded animal without benefit to the Government, the facts shall be fully reported to the Chief of the Bureau for appropriate action to obtain full satisfaction of the Government's claim.

> In testimony whereof, I have hereunto set my hand and caused the official seal of the United States Department of Agriculture to be affixed in the City of Washington this 13th day of December 1938.

[SEAL]

H. A. WALLACE, Secretary of Agriculture.

[F. R. Doc. 38-3751; Filed, December 13, 1938; 3:54 p. m.]

### Notices

### DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

NOTICE OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMUL-GATED (A) FIXING AND ESTABLISHING DEFINITION AND STANDARD OF IDENTITY, STANDARD OF QUALITY, AND STANDARD OF FILL OF CONTAINER, FOR CANNED TO-MATOES; AND (B) SPECIFYING FORM AND MANNER OF LABEL STATEMENTS FOR SUCH CANNED TOMATOES WHICH FALL BELOW SUCH STANDARD OF QUALITY, AND SUCH STANDARD OF FILL OF CONTAINER

In conformity with subsection (e) of Section 701 of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U. S. C. 371 (e)], notice upon the proposals herein set forth is hereby given to all interested persons that a public hearing will be held beginning at 10 a.m., January 19, 1939, in Room 3036, Department of Agriculture, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of section 401 of said act (Sec. 401, 52 Stat. 1046; 21 U.S. C. 341), regulations may be promulgated (a) fixing and establishing a definition and standard of identity, a standard of quality, and a standard of fill of container for canned tomatoes: and (b) in pursuance of the authority vested

in the Secretary of Agriculture by the provisions of sections 401 and 403 (h), (1) and (2), of said act [Secs. 401 and 403 (h), (1) and (2), 52 Stat. 1046 and 1047; 21 U. S. C. 341 and 343 (h), (1) and (2)], regulations may be promulgated specifying the form and manner of label statements for canned tomatoes which fall below such standard of quality and such standard of fill of container.

All interested persons are invited to attend this hearing and offer relevant evidence either in person or by representative. In lieu of personal attendance, affidavits may be offered either in person at the time of the hearing or by sending the same to John McDill Fox, Room 2311, South Building, Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., so as to be in his office by the date above stated. Such affidavits, if relevant and material, may be received, but the Secretary will consider the lack of opportunity for cross-examination in determining the weight that shall be given to such affidavits.

The proposed definition and standard of identity, standard of quality, and standard of fill of container for canned tomatoes, and the form and manner of label statements for such food which falls below such standards of quality and fill of container attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the hearing may require.

Mr. John McDill Fox is hereby designated as presiding officer to conduct, in the place of the Secretary, the foregoing hearing, with authority to administer oaths, and to do all things necessary and appropriate to the proper conduct of such hearing as may be provided in the general procedural regulations which will be available at the hearing.

[SEAL] H. A. WALLACE, Secretary of Agriculture.

DECEMBER 14, 1938.

TOMATOES-PROPOSED DEFINITION STANDARD OF IDENTITY FOR THE CANNED FOOD PRODUCT COMMONLY KNOWN AS TOMATOES

Tomatoes consist of one of the following optional tomato ingredients:

- (1) (a) Clean, mature, red tomatoes which are sound or with imperfections removed by trimming, and which have been peeled and cored, with (b) the liquid obtained from such tomatoes in peeling, coring, trimming, and packing;
- (2) Tomato ingredient (1) (a) with a strained mixture consisting of clean. sound tomato trimmings and liquid obtained from tomato ingredient (1) (a) in peeling, coring, and trimming;

With or without one or more of the optional added ingredients:

- (a) Salt.
- (b) Sweet basil leaves.

Sealed in a container and processed by heat to prevent spoilage.

When optional tomato ingredient (2) or optional added ingredient (b) is used, that fact shall be stated on the label. (Form of declaration to be later specified.)

TOMATOES—PROPOSED STANDARD OF QUALITY FOR THE CANNED FOOD PRODUCT COM-MONLY KNOWN AS TOMATOES

The food in the container meets the standard of quality when:

(a) The weight of tomatoes retained after draining for 2 minutes on an appropriate sieve, described below, equals or exceeds one-half the weight of water at 68° F. required to fill the container (such weight of water to be determined as specified in the accompanying method).

The sieve used shall have 2 meshes to the linear inch. The bottom shall be made of wire of a uniform diameter of 0.054" woven into square meshes with a uniform inside diameter of 0.446". For food in containers of less than 3 pounds net weight, such a sieve 8 inches in diameter shall be used. For food in containers of 3 pounds net weight or more, such a sieve 12 inches in diameter shall be

(b) The red color of the tomatoes is such that it complies with the following requirements: The pieces of tomatoes obtained in (a) are removed from the sieve and selected and cut in such manner as to successively segregate those portions in which the red color is least developed until they equal one-half of the total weight of the pieces of tomatoes obtained in (a). Such portions are reduced to a homogeneous mixture without removing or breaking the seeds. After freeing such mixture from air bubbles, a black container 1 inch deep is filled with the mixture and visible seeds are skimmed off or pressed below the surface. The color of the mixture in the black container is then compared in full daylight or its equivalent with a combination of the following blended Munsell color disks:

- (1) 5R 2.6/13 (glossy finish).
- (2) 2.5YR 5/12 (glossy finish).
- (3) N 1/ (glossy finish).
- (4) N 4 (mat finish).

If (1) the red color of the mixture is so well developed that it cannot be matched by any of these disks or any combination of them, or (2) if it is sufficiently developed to be matched by a combination in which the exposed area of disk (1) covers one-third or more of the circle, and the exposed area of disk (2) does not exceed that of (1) (regardless of the exposed area of disks (3) and (4)); the red color in either case meets the requirement of the standard.

(c) The tomatoes are so peeled that there is not more than \_\_\_\_ square inches (to be fixed at a point between 1 and 1.5 square inches) of peel per pound of net contents in the container.

(d) The fruit is so trimmed that the total of the maximum cross-sectional areas of all unsightly blemishes does not exceed 1/4 square inch per pound of net contents in the container.

PROPOSED METHODS FOR DETERMINING IN CANNED TOMATOES (1) PERCENTAGE OF TOTAL CAPACITY OF CONTAINER OCCUPIED BY PRODUCT AND (2) WEIGHT OF WATER AT 68° F. REQUIRED TO FILL THE CON-TAINER

(1) For cylindrical metal containers.— (a) Percent of total capacity of container occupied by total contents:

Measure carefuly to the nearest sixteenth of an inch the following, expressing as a whole number the total number of sixteenth inches:

A, the over-all height of the container: B, the combined heights of the double seams of the closed container (sum of the vertical distances, taken at each end, from the top of the double seam to the point where the cover turns at right angles to the side wall);

C, the vertical distance from the top of the double seam to the highest point of the product (after carefully opening the container without disturbing the double seam).

Obtain the percent of total capacity of container occupied by total contents by the

following formula:

$$\frac{A-(C+B)}{2}\times 100$$

where A, B, and C are the measurements, expressed and designated as in (1) (a) above.

(b) Weight of water at 68° F. required to fill the container:

Measure over-all diameter of container at the highest point of the side to the nearest sixteenth of an inch (for use in Table A). Multiply measurement A minus measurement B, obtained and expressed as in (1) (a), by the avoirdupois ounces of water at 68° F. corresponding to each sixteenth inch of height of a container of the outside diameter above determined, such weight of water being obtained from Table A. The product of the above multiplication is deemed to be the weight of water at 68° F. required to fill the container.

### TABLE A

Avoirdupois Ounces Water at 68° F. Outside diameter at lid, per Each Sixteenth in sixteenth inches: Inch Height

34	0.120
40	. 162
43	. 188
45	. 205
48	. 234
49	. 241
51	. 264
55	. 306
60	. 371
65	. 431
68	. 487
82	. 704
99	1.033
106	1. 194

For containers with diameters not given in Table A, determine water capacity as described in (2) (b).

(2) For square, or other non-cylindrical metal containers with vertical sides .-

occupied by total contents:

Determine as in (1) (a). If a determination of water capacity is also necessary, open container as described in (2)

(b) Weight of water at 68° F. required to fill the container:

With a hack saw make a level cut across the top of the container in such a manner as to just divide the lid into two approximately equal parts. Cut out one of such parts with a can opener. Remove contents and close, with adhesive tape or other convenient material, any saw cuts in the sides which extend below the level of the lid. Rinse container with water, dry, and weigh. Fill container with distilled water at 68° F. to the point where the lower surface of the lid meets the sides. Weigh again. The difference in weight is deemed to be the weight of water at 68° F. required to fill the container.

(3) For metal containers with sloping sides, or otherwise irregular in shape.-(a) Weight of water at 68° F. required to fill the container:

After cutting and removing part of lid as described in (2) (b), measure distance from the highest point of the side of container to the highest point of the product (for use in (3) (b)). Determine water capacity as described in (2) (b).

(b) Percent of total capacity of container occupied by total contents:

Draw off water used in determining water capacity under (3) (a) until the container is filled to the same point as that formerly occupied by the product. Determine the weight of water remaining and divide it by the water capacity as determined in (3) (a). The quotient multiplied by 100 gives the percent of total capacity of container occupied by total contents.

(4) For glass or other non-metallic containers.—(a) Weight of water at 68° F. required to fill the container:

Remove closure (lid or cap) and measure to the nearest sixteenth of an inch the distance from the highest point of the container to highest point of the product (for use in (4) (b)). After removing product, rinse, dry, and weigh container. Fill container completely with distilled water at 68° F. Weigh again. The difference in weight is deemed to be the weight of water at 68° F. required to fill the container.

(b) Percent of total capacity of container occupied by total contents:

Determine as described in (3) (b).

TOMATOES-PROPOSED STANDARD OF FILL OF CONTAINER FOR THE CANNED FOOD PROD-UCT COMMONLY KNOWN AS TOMATOES

standard of fill when the total contents and Cosmetic Act [Sec. 701, 52 Stat.] in their natural proportions, broken out

between 90 and 95 percent) of the total capacity of such container (such percentage to be determined as specified in the accompanying method).

### LABELING OF SUBSTANDARD CANNED TOMATOES

(1) Tomatoes which fall below the standard of quality.-An article of food which falls below the standard of quality shall be labeled in the following form and manner:

Wherever the name of the food or a picture thereof appears, there shall also appear immediately above or below such name or such picture, without intervening material and against a strongly contrasting uniform background, a box legend of the following specifications:

Box .- Rectangular in shape, with a border not less than 6 points in width.

Wording enclosed in box.—First line, "Substandard Quality," in 12-point Cheltenham bold condensed caps for containers of less than 1 pound of total contents, and in 14-point Cheltenham bold condensed caps for containers of 1 pound or more of total contents. Second line, "Good Food-Not High Grade," in 8-point Cheltenham bold condensed caps for containers of less than 1 pound of total contents, and in 10-point Cheltenham bold condensed caps for containers of 1 pound or more of total contents.

(2) Tomatoes which fall below the standard of fill of container.—An article of food which falls below the standard of fill of container shall be labeled in the following form and manner:

For an article with total contents occupying an insufficient percentage of the total capacity of the container, the form and manner of labeling as to position, box and type shall be identical with that of (1). The wording of the first line in such box shall be "Substandard Fill" and the second line, "Excess Head Space."

Provided. That if the wordings specifled in (1) and (2) are both applicable to a single article, they may be combined in a single box.

[F. R. Doc. 38-3755; Filed, December 14, 1938; 12:06 p. m.]

NOTICE OF PUBLIC HEARING FOR PURPOSE EGGS-PROPOSED DEFINITION AND STANDARD OF RECEIVING EVIDENCE UPON BASIS OF WHICH A REGULATION MAY BE PROMUL-GATED FIXING AND ESTABLISHING A DEFI-NITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: EGGS, LIQUID WHOLE EGGS, LIQUID MIXED EGGS, FROZEN WHOLE EGGS, DRIED WHOLE EGGS, EGG YOLK, FROZEN EGG YOLK, DRIED EGG YOLK

In conformity with subsection (e) of The food in the container meets the Section 701 of the Federal Food, Drug, and unbroken yolks of eggs, sound and so fill the container that they occupy at | 1055; 21 U.S.C. 371 (e)], notice upon the of the shell after candling or otherwise

(a) Percent of total capacity of container | least \_\_\_\_ percent (to be fixed at a point | proposals herein set forth is hereby given to all interested persons that a public hearing will be held beginning at 10 a.m., January 23, 1939, in Room 3036, Department of Agriculture, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of section 401 of said act (Sec. 401, 52 Stat. 1046; 21 U. S. C. 341), regulations may be promulgated fixing and establishing a reasonable definition and standard of identity for each of the foods commonly known as eggs, liquid whole eggs, liquid mixed eggs, frozen whole eggs, dried whole eggs, egg yolk, frozen egg yolk, and dried egg yolk.

> All interested persons are invited to attend this hearing and to offer relevant evidence either in person or by representative. In lieu of personal attendance, affidavits may be offered either in person at the time of the hearing or by sending the same to John McDill Fox, Room 2311, South Building, Department of Agriculture, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., so as to be in his office by the date above stated. Such affidavits. if relevant and material, may be received, but the Secretary will consider the lack of opportunity for cross-examination in determining the weight that shall be given to such affidavits.

> The proposed definitions and standards of identity attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the hearing may

> Mr. John McDill Fox and Mr. Daniel P. Willis are hereby designated as presiding officers to conduct, either jointly or severally, in the place of the Secretary, the foregoing hearing, with power to administer oaths, and to do all things necessary and appropriate to the proper conduct of such hearing as may be provided in the general procedural regulations which will be available at the hearing.

[SEAL]

H. A. WALLACE, Secretary of Agriculture.

**DECEMBER 14, 1938.** 

OF IDENTITY FOR THE FOOD PRODUCT COM-MONLY KNOWN AS EGGS

Eggs are the fully developed ova of the domestic hen.

LIQUID WHOLE EGGS-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS LIQUID WHOLE EGGS

Liquid whole eggs consist of the whites

with rejection, after breaking, of any remaining unsound and unfit eggs; packed in a suitable container.

LIQUID MIXED EGGS-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS LIQUID MIXED EGGS

Liquid mixed eggs consist of a homogeneous, strained mixture of the whites and volks of eggs, sound and in their natural proportions; broken out of the shell after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; packed in a suitable container.

FROZEN WHOLE EGGS-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS FROZEN WHOLE EGGS

Frozen whole eggs consist of a homogeneous, strained mixture of the whites and yolks of eggs, sound and in their natural proportions; broken out of the shell after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; packed in a suitable container; and frozen in such a manner as to prevent spoilage.

DRIED WHOLE EGG-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS DRIED WHOLE EGG

Dried whole egg consists of a homogeneous, strained mixture of the whites and yolks of eggs, sound and in their natural proportions; broken out of the shell after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; dried to a maximum moisture content of \_\_\_\_ percent (to be fixed at a point between 7% and 8.5%); ground or unground; and packed in a suitable container.

YOLK-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS EGG YOLK

Egg yolk consists of a homogeneous, strained mixture of yolks broken out of the shell, after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; so separated from whites as to yield a minimum egg solids content of \_\_\_\_ percent (to be fixed at a point between 43% and 45%); and packed in a suitable container.

FROZEN EGG YOLK-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS FROZEN EGG YOLK

Frozen egg yolk consists of a homogenous, strained mixture of yolks broken out of the shell, after candling or other-| South Building, Department of Agricul-| mato ingredients:

sorting out unsound and unfit eggs, and wise sorting out unsound and unfit eggs, ture, Independence Avenue, between 12th and with rejection, after breaking, of any remaining unsound and unfit eggs; so separated from whites as to yield a minimum egg solids content of \_\_\_\_ percent (to be fixed at a point between 43% and 45%); packed in a suitable container: and frozen in such a manner as to prevent spoilage.

> DRIED EGG YOLK—PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS DRIED EGG

> Dried egg yolk consists of a homogeneous, strained mixture of yolks broken out of the shell, after candling or otherwise sorting out unsound and unfit eggs, and with rejection, after breaking, of any remaining unsound and unfit eggs; so separated from whites as to yield, in the finished product, a minimum fat content on the dry basis of \_\_\_\_ percent (to be fixed at a point between 58.5% and 60%); dried to a maximum moisture content of \_\_\_\_ percent (to be fixed at a point between 4.5% and 5.5%); and packed in a suitable container.

[F. R. Doc. 38-3756; Filed, December 14, 1938; 12:06 p. m.]

NOTICE OF PUBLIC HEARING FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH A REGULATION MAY BE PROMUL-GATED FIXING AND ESTABLISHING A DEFI-NITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: To-MATO PUREE, TOMATO PASTE, TOMATO CATSUP, TOMATO JUICE

In conformity with subsection (e) of Section 701 of the Federal Food, Drug, and Cosmetic Act [Sec. 701, 52 Stat. 1055; 21 U. S. C. 371 (e)], notice upon the proposals herein set forth is hereby given to all interested persons that a public hearing will be held beginning at 10 a. m., January 16, 1939, in Room 3036. Department of Agriculture, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of section 401 of said act (Sec. 401, 52 Stat. 1046; 21 U.S. C. 341), regulations may be promulgated fixing and establishing a reasonable definition and standard of identity for each of the foods commonly known as tomato puree. tomato paste, tomato catsup, and tomato juice.

All interested persons are invited to attend this hearing and to offer relevant evidence either in person or by representative. In lieu of personal attendance affidavits may be offered either in person at the time of the hearing, or by sending the same to John McDill Fox, Room 2311,

and 14th Streets SW., Washington, D. C., so as to be in his office by the date above stated. Such affidavits, if relevant and material, may be received, but the Secretary will consider the lack of opportunity for cross-examination in determining the weight which shall be given to such affidavits.

The proposed definitions and standards of identity attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Secretary, in whole or in part, as the evidence adduced at the hearing may require.

Mr. John McDill Fox is hereby designated as presiding officer to conduct in place of the Secretary the foregoing hearing, with power to administer oaths, and to do all things necessary and appropriate to the proper conduct of such hearing as may be provided in the general procedural regulations which will be available at the hearing.

[SEAL] H. A. WALLACE, Secretary of Agriculture.

**DECEMBER 14, 1938.** 

TOMATO PUREE-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS TOMATO PUREE

Tomato puree is the product obtained from one of the following optional tomato ingredients:

- (1) Clean, mature red tomatoes which are sound, or with imperfections removed by hand trimming; or
- (2) Number (1) above with clean, sound tomato trimmings; or
- (3) Number (1) above with clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or (4) Clean, sound tomato trimmings;
- (5) Clean, sound pomace obtained as a by-product in the manufacture of
- tomato juice; or (6) A mixture of numbers (4) and (5) above; by crushing and straining free from skins, seeds and cores, with or without the application of heat; and by evaporating to a minimum tomato solids content of \_\_\_\_ percent (to be fixed at a point between 8.37 and 10.5 percent); it may or may not contain the optional ingredient added salt; it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

When optional tomato ingredient (2), (3), (4), (5) or (6) is used, that fact shall be stated on the label (form of declaration to be later specified).

TOMATO PASTE-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS TOMATO PASTE

Tomato paste is the product obtained from one of the following optional to-

- are sound, or with imperfections removed by hand trimming: or
- (2) Number (1) above with clean, sound tomato trimmings; or
- (3) Number (1) above with clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or
  - (4) Clean, sound tomato trimmings; or
- (5) Clean, sound pomace obtained as a by-product in the manufacture of tomato juice; or
- (6) A mixture of numbers (4) and (5) above; by crushing and straining free from skins, seeds and cores, with or without application of heat; and by evaporating to a minimum tomato solids content of \_\_\_ percent (to be fixed at a point between 22 and 26 percent); it may or may not contain one or more of the optional added ingredients:
  - (a) Sweet basil leaves.
  - (b) Oil of sweet basil.
  - (c) Salt.
  - (d) Sodium bicarbonate.

it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

When optional tomato ingredient (2), (3), (4), (5), or (6), or optional added ingredient (d), is used, that fact shall be stated on the label (form of declaration to be later specified).

CATSUP (OR TOMATO CATSUP) --- PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS CATSUP (OR TOMATO CATSUP)

Catsup (or tomato catsup) is the product obtained from clean, mature red tomatoes which are sound (or from which imperfections have been removed by hand trimming) by crushing and straining free from skins, seeds and cores, with or without application of heat; by evaporating so as to result in a finished product of thick consistency; by seasoning with sugar, salt, a vinegar, spice, spice oil and other seasoning; by straining to a smooth consistency; it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

TOMATO JUICE-PROPOSED DEFINITION AND STANDARD OF IDENTITY FOR THE FOOD PRODUCT COMMONLY KNOWN AS TOMATO JUICE

Tomato juice is the product obtained from clean, mature red tomatoes which

(1) Clean, mature red tomatoes which | are sound (or with minor imperfections | RURAL ELECTRIFICATION ADMINISonly) by removing any minor imperfections by hand trimming; by crushing and straining, with or without external application of heat, so as to produce a liquid carrying finely divided tomato flesh in suspension, and to exclude skins, seeds and cores together with a portion of the tomato flesh; it may or may not be homogenized; it may or may not contain the optional ingredient added salt; it is sealed in a container and processed by heat, before or after sealing, to prevent spoilage.

> [F. R. Doc. 38-3757; Filed, December 14, 1938; 12:07 p. m.]

### FEDERAL POWER COMMISSION.

[Docket No. IT-5535]

Application of Iowa-Nebraska Light and POWER COMPANY

ORDER FIXING DATE OF HEARING

**DECEMBER 13, 1938.** 

Commissioners: Clyde L. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

Upon application filed December 5, 1938, by Iowa-Nebraska Light and Power Company, pursuant to Section 203 (a) of the Federal Power Act,1 for an order authorizing the applicant to sell its electric facilities for the production, transmission, distribution and sale of electric energy and business incidental thereto in the State of Nebraska to The Central Nebraska Public Power and Irrigation District and Loup River Public Power District;

The Commission orders that:

A public hearing on said application be held on December 22, 1938, beginning at 10 o'clock a. m., in the Commission's hearing room, Hurley-Wright Building, 1800 Pennsylvania Avenue NW., Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY, Secretary.

[F. R. Doc. 38-3754; Filed, December 14, 1938; 11:02 a. m.]

# TRATION.

[Administrative Order No. 312]

ALLOCATION OF FUNDS FOR LOANS

**DECEMBER 12, 1938.** 

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	Amount
Alabama R9023C1 Pike	\$239,000
Arkansas 9012B1 Miller	267, 000
Arkansas 9013B1 Johnson	170,000
Indiana R9015B1 Fayette	50, 000
Indiana R9088A2 Kosciusko	46, 000
Kentucky R9003A1 Jackson	188, 000
Kentucky R9021D1 Nelson	135, 000
Kentucky R9023B1 Taylor	151,000
Kentucky R9050A1 Graves	219,000
Mississippi R9030A1 Jones	190, 000
Mississippi R9031B1 Washington	170, 000
Missouri R9030B1 Lawrence	263, 000
Missouri R9034B1 Macon	<b>2</b> 31, 000
Nebraska R9038A1 Hall	164, 000
Nebraska R9062A1 Seward	274, 000
North Carolina 9021B1 Sampson	76, 000
Texas R9038C1 Hill	114, 000
Texas R9054C1 Wood	118, 000
Virginia R9031B2 Mecklenburg	78,000
Wisconsin R904G7 Chippewa	200,000

JOHN M. CARMODY, Administrator.

[F. R. Doc. 38-3752; Filed, December 14, 1938; 9:44 a. m.]

[Administrative Order No. 313] ALLOCATION OF FUNDS FOR LOANS

**DECEMBER 12, 1938.** 

By virtue of the authority vested in me by the provisions of Section 5 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project Designation	Amount
Georgia R9066W2 Taylor	\$10,000
Georgia R9086W1 Seminole	20,000
Indiana R9059W1 Wayne	5,000
Kentucky 9040W1 Jessamine	5,000
Louisiana 9010W1 Washington	5,000
Michigan R9039W4 Van Buren	10,000
Michigan R9043W1 Chippewa	15,000
Mississippi 9029W1 Oktibbeha	16,000
Texas R9074W1 Baylor	8,000
Wisconsin R9051W1 St. Croix	

JOHN M. CARMODY, Administrator.

[F. R. Doc. 38-3753; Filed, December 14, 1938; 9:44 a. m.]

<sup>1 49</sup> Stat. 849.